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Supreme Court of the United States

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October Term, 1966

No. 524

MICHAEL IZZI, *Petitioner*

vs.

JOHN R. REZZOLLA, JR., ESQ., DALLETT HEMPHILL, ESQ., WILLIAM J. C. O'DONNELL, ESQ., and JAMES O'NEAL, ESQ., *Respondents*

PETITION FOR WRIT OF CERTIORARI TO THE PENNSYLVANIA SUPREME COURT

Michael Izzi, Petitioner
In Propria Personna

927 S. High Street
West Chester, Pennsylvania

INDEX TO BRIEF

	Page
Opinions Below	1
Jurisdiction	2
Questions Presented	2
Constitutional Provisions, Statutes and Rules Involved	3
Statement of the Case	4
Argument	6
1. Did the Court of Common Pleas of Chester County, Pennsylvania, without reference to the merits, depart from the established standards of judicial procedure and accept fair and orderly procedure in cases of this type?	6
2. Did the Court of Common Pleas incorrectly decide or fail to consider the importance of question of whether public law and constitutional laws and statutes were violated by the Defendants?	6
3. May trial without jury heard before one judge who refused to disqualify himself in the case and who had a personal interest as to its decision constitute fair hearings, and does it meet the standards and principles of the due process clause where public officers and lawyers involved in a fraud that is within the meaning of the U. S. Constitution?	8
4. Did the Pennsylvania Supreme Court apply erroneous standards of judicial procedure and review from the lick and promise treatment to Plaintiff so as to deny Plaintiff the opportunity to be heard?	9

INDEX TO APPENDIX

	Page
Decision	13
Order	14
Motion for Extension of Time for Filing Report of Jury of View	15
Order	15
Letter from Commonwealth of Pennsylvania to Michael Izzi, dated September 7, 1961	16
Letter from Michael Izzi to John Rezzolla, Jr., dated September 14, 1961	16
Telegram from Michael Izzi to Hon. David F. Stahl, dated March 19, 1962	17
Letter from Michael R. Dickman to James E. O'Neill, Jr., Esquire, dated April 27, 1962	18
Letter from O'Donnell & O'Donnell to Honorable John M. Kurtz, Jr., dated December 10, 1962	19
Telegram from Michael Izzi to John Rezzolla dated January 25, 1963	20
Letter from O'Donnell & O'Donnell to Samuel Rappaport, Esquire, dated April 26, 1963	22
Letter from Dallett Hemphill, Esquire to Michael Izzi, dated May 8, 1963	23
Letter from Louis Silverman to Michael Izzi, dated June 3, 1963	24
Letter from James E. O'Neill, Jr., Esquire to Michael Izzi, dated August 28, 1963	25
Letter from John M. McHale to Michael Izzi, dated September 30, 1963	26
Letter from Michael R. Deckman to Michael Izzi, dated August 6, 1964	27

Page

Order of Thomas A. Riley, J. 28

Letter from Henry D. Harral to Michael Izzi, dated January 6, 1965 29

Letter from Michael Izzi to W. Edward Greenwood, Esq., dated February 23, 1965 29

Letter from Michael Izzi to Hon. Henry D. Harral, dated March 29, 1965 30

Letter from Henry D. Harral to Michael Izzi, dated April 1, 1965 32

Telegram from Michael Izzi to Hon. Henry D. Harral, dated May 11, 1965 32

Telegram from Michael Izzi to Hon. Henry D. Harral, dated June 15, 1965 33

Letter from Michael Izzi to Governor Scranton, dated June 30, 1965 34

Map of Land Involved 36

TABLE OF CITATIONS

Cases:

Ashby v. White, 22 Ld. Raym. 938 (1703) 11

Chicago, B. & B.R. v. Chicago, 166 U.S. 226, 241, 41 L.Ed. 979, 986, 17 S. Ct. 581 7

Mostyn v. Fabrigas, 1 Cowp. 161 (1744) 11

Norwood v. Baker, 172 U.S. 269, 277, 43 L.Ed. 443, 446, 19 S. Ct. 1871 7

San Diego Land & Towne Co. v. National City, 174 U.S. 739, 754, 43 L.Ed. 1154, 1160, 19 S. Ct. 804 .. 7

Smyth v. Ames, 169 Y.S. 466, 524, 42 L.Ed. 819, 841, 18 S. Ct. 418 7

United States v. White, 124, F. 2d 181 (2 Cir.) 9

TABLE OF CITATIONS—*Continued*

Statutes:	Page
Code of Civil Procedure, Subdivision 1 of section 170	4, 9
Pennsylvania Constitution:	
Article I, Section 10	7
Article 16, Section 8	7
United States Constitution:	
4th Amendment	7
5th Amendment	3
7th Amendment	3, 8
14th Amendment, Section 1	7

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vs.

JOHN R. REZZOLLA, JR., ESQ., DALLETT HEMPHILL, ESQ., WILLIAM J. C. O'DONNELL, ESQ., and JAMES O'NEAL, ESQ., *Respondents*

PETITION FOR WRIT OF CERTIORARI TO THE PENNSYLVANIA SUPREME COURT

Petitioner, Michael Izzi, prays that a Writ of Certiorari be granted to review the Order of the Supreme Court of Pennsylvania, Eastern District, affirming the Order of the Chester County Court of Common Pleas.

OPINIONS BELOW

The Supreme Court of Pennsylvania, in a per curiam order entered March 22, 1966 (without opinion) affirmed the order of the Court of Common Pleas of Chester County. On May 6, 1966, it refused reargument. These actions are reported at 420 Pa. 643 (1966).

The opinion of the Court of Common Pleas of Chester County, Pennsylvania, is appended hereto at page 13. This opinion has not been reported.

Jurisdiction

The jurisdiction of Your Honorable Court is invoked pursuant to the provisions of Title 28, U. S. Code, Section 1254, and the Supreme Court Rules 19(b) in that it has so far departed from the accepted and usual course of judicial proceeding as to call for an exercise of this Court's power of supervision and/or has decided it in a way probably not in accord with applicable decisions of this Court.

The Order sought to be reviewed is that of the Supreme Court of Pennsylvania entered on March 22, 1966, affirming the Order of the Court of Common Pleas for the County of Chester. On May 6, 1966, the Supreme Court of Pennsylvania denied a petition for rehearing.

Questions Presented

1. Did the Court of Common Pleas of Chester County, Pennsylvania, without reference to the merits, depart from the established standards of judicial procedure and accept fair and orderly procedure in cases of this type?

2. Did the Court of Common Pleas incorrectly decide or fail to consider the importance of the question of whether public law and constitutional laws and statutes were violated by the Defendants?

3. May trial without jury heard before one local Judge who has a personal interest as to its decision constitute fair hearings, and does it meet the standards and principles of the due process clause where public officers and lawyers are involved with acts that are in violation of the meaning of the United States Constitution?

4. Did the Court of Common Pleas, without reference to the merits, require it to observe the constitutional due process toward the Plaintiff so as to refuse to view the evi-

dence of facts presented by the Plaintiff and also exclude it from record?

5. Did the Pennsylvania Supreme Court apply erroneous standards of judicial procedure and review by its lick and promise treatment to Plaintiff so as to deny Plaintiff the opportunity to be heard?

Constitutional Provisions, Statutes and Rules Involved

The constitutional provision and statutes which this case involves are as follows:

United States Constitution, Amendment V:

> "No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation."

United States Constitution, Amendment VII:

> "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law."

How. Statute, sec. 7245 enacts:

> "No judge of any court can sit as such in any cause in which he is a party, or in which he is inter-

ested, or in which he would be excluded from being a juror by reason of consanguinity or affinity to either of the parties."

Subdivision 1 of section 170 of the Code of Civil Procedure, which provides that "no judge shall sit or act in any action or proceeding in which he is interested."

Statement of the Case

For the sake of brevity, Petitioner will at this juncture undertake to depict only the general posture of the difficulties forced upon Plaintiff which has resulted in Plaintiff bringing this matter to the attention of Your Honorable Court.

The Petitioner herein, Michael Izzi, with business location in West Chester, Pennsylvania, prior to 1953 owned a valuable tract of land on which Petitioner maintains his home and business. In 1953, Plaintiff's business was disrupted, his private property seized without description and the train of events that followed constitute fraud upon fraud, and this was made known to one named Defendant (who was in 1955 and still is today the Chief Counsel for the Pennsylvania Department of Highways) as to the gross irregularities that had taken place in the seizure of private property without description that was not within the meaning of the Pennsylvania Constitution and the United States Constitution.

His refusal to take appropriate action in restraining the fraud that was taking place—instead he approved and supported that fraud, and his negligence as Chief Counsel for the Pennsylvania Department of Highways became willful to deprive landowner of rights and property.

One named Defendant retains two titles, one as Chief Counsel for the Pennsylvania Department of Highways and the other Deputy Attorney General, and of the many com-

plaints made to him as well as to his superiors, including the Secretary of Highways, the Justice Department, office of State Police and to Governors, all of whom refused to take action against the Defendant due to the powerful political influence Defendant has in state matters that involves federal funds as well in respect to federal highways in Pennsylvania. Plaintiff's many complaints made against the Chief Counsel for the Pennsylvania Department of Highways as to his malpractice, misconduct and willful negligence no one would take action against him, including the Pennsylvania Bar Association, the reason given by them being that he, the Chief Counsel for the said department, was not a member of the Pennsylvania Bar Association.

The Defendants, who are public officers and lawyers, who recklessly and willfully neglected the provisions of the United States Constitution, which rights are as follows:

1. Right to ownership and enjoyment of private property.

2. Right to free choice of counsel.

3. Right to engage in business and in ordinary occupation of life, free from bias, prejudice and discrimination.

4. Right to peace of mind and enjoyment of free society.

5. Right to be free from illegal seizure of private property without description and compensation.

The above named rights deprived Plaintiff were the direct result of Defendant's willful negligence to do injury to Plaintiff's case, person, rights and private property which has resulted in this action against Defendants.

Argument

1. *Did the Court of Common Pleas of Chester County, Pennsylvania, without reference to the merits, depart from the established standards of judicial procedure and accept fair and orderly procedure in cases of this type?*

This case was initiated in the Court of Common Pleas of Chester County, Pennsylvania, by form of Writ of Praecipe properly served upon Defendants grounded by willful negligence and fraud against the Defendants by the petitioner. The Defendants, who are public officers and lawyers, who did not use due care and diligence with the Plaintiff's private property, seized and taken without description as required by public law and constitutional law.

U. S. Constitution, 4th Amendment, provides:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Defendants, who are public officers, caused Plaintiff's property to be seized without description, and interfered with the due process of law, and has denied landowner just compensation.

2. *Did the Court of Common Pleas incorrectly decide or fail to consider the importance of question of whether public law and constitutional laws and statutes were violated by the Defendants?*

The Defendants, in open court without a jury, were charged by the Plaintiff with criminal fraud for reason that Defendants had formed a conspiracy to do injury to Plaintiff's case, person, rights and property, approved,

supervised and directed by the Chief Counsel for the Pennsylvania Department of Highways (who is one named Defendant in this action) and whose aim was to carry out a fraud by force against the Plaintiff's rights and property, contrary to Pennsylvania Constitution, Article 16, Sec. 8, that provides, inter alia, that condemnors shall "make just compensation for property taken, injured or destroyed." Also, Article I, Section 10, of the Pennsylvania Constitution provides that "nor shall private property be taken for public use, without authority of the law and without just compensation being first made or secured." Also, in violation of the U. S. Constitution, 14th Amendment, Section 1, which provides that:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

In *Chicago, B. & B. R. v. Chicago*, 166 U. S. 226, 241, 41 L. Ed. 979, 986, 17 S. Ct. 581, this Court held that a judgment of a state court, even though authorized by statute, by which private property was taken for public use without just compensation was in violation of the due process law required by the Fourteenth Amendment, notwithstanding that the Fifth Amendment explicitly declares that private property shall not be taken for public use without just compensation. This holding was followed in *Norwood v. Baker*, 172 U. S. 269, 277, 43 L. Ed. 443, 446, 19 S. Ct. 1871; *Smyth v. Ames*, 169 U. S. 466, 524, 42 L. Ed. 819, 841, 18 S. Ct. 418; *San Diego Land & Towne Co. v. National City*, 174 U. S. 739, 754, 43 L. Ed. 1154, 1160, 19 S. Ct. 804.

The best proof Plaintiff had at the trial without jury is that still today Plaintiff has no land and has not received compensation for the land in question seized without description, which was of judicial knowledge, and was mentioned in the trial but excluded in the Court's written Opinion (found in Appendix B) so as not to disclose the real issue of the case should the case be appealed, as was done so by the Plaintiff.

The U. S. Constitution, Amendment 7th, provides that:

> "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law."

And for reason that the Plaintiff was denied a trial by jury (who are the judges of the evidence of facts presented) it gives this Honorable Court additional ground for jurisdiction over this case involving private property rights, and public officers of a state charged with fraud, who place themselves above the United States Constitution and in which the state refused to take action.

3. *May trial without jury heard before one judge who refused to disqualify himself in the case and who had a personal interest as to its decision constitute fair hearings, and does it meet the standards and principles of the due process clause where public officers and lawyers involved in a fraud that is within the meaning of the U. S. Constitution?*

How. Stat. sec. 7245, enacts:

> "No judge of any court can sit as such in any cause in which he is a party, or in which he is interested, or in which he would be excluded from being a

juror by reason of consanguinity or affinity to either of the parties."

This statute, mandatory in its terms, voices the universal sentiment of mankind excluding judges from sitting in cases where they are parties or are interested.

United States v. White, 124, F. 2d 181 (2 Cir.):

> "Defendants contend that the exclusion was in any event not prejudicial and under the evidence introduced, it is not at all unlikely that the jury might have found the same verdict had the rule not been excluded. But in view of the importance it assumed at the trial and the limited testimony otherwise available, we can hardly hold the exclusion not prejudicial. We call attention once more to the admonition we have often uttered against harsh exclusionary rulings by trial judges, for 'admission seldom does any harm, while exclusion often proves extremely embarrassing in sustaining a judgment fundamentally just.' "

Subdivision 1 of section 170 of the Code of Civil Procedure, which provides that no judge shall sit or act in any action or proceeding "in which he is interested."

5. *Did the Pennsylvania Supreme Court apply eroneous standards of judicial procedure and review from the lick and promise treatment to Plaintiff so as to deny Plaintiff the opportunity to be heard?*

The Plaintiff's timely filed Brief was filed in the Pennsylvania Supreme Court, and on the day of the Argument, the Plaintiff was denied the right to be heard, by the lick and promise tactics in that no Argument was needed, that the case would be judged only on the merits of the Plaintiff's Brief that had been timely filed. (The Plaintiff's Brief, as was admitted by the Defendant, does constitute criminal fraud upon the records against the Defendant) and prior to March 22, 1966, before the Order was issued by the Penn-

sylvania Supreme Court, affirming the Order of the lower court, the Plaintiff petitioned the Pennsylvania Supreme Court, under New Matter, to remove case from civil action and place case under criminal fraud action against Defendants, to which the Pennsylvania Supreme Court ignored completely as to Plaintiff's timely filed Brief and Plaintiff's petition under New Matter to remove case into criminal fraud action, notwithstanding that the Defendants, who are public officers and lawyers, had violated Pennsylvania Supreme Court Rule 64, in that Defendant's Brief was filed after time for filing had expired.

It is suggested that the Pennsylvania Supreme Court and the lower court both, due to the nature of this case (involving public officers and lawyers, notwithstanding that one named Defendant is a law partner of the Judge's son who presided over case without a jury), has failed to implement the rights due the Plaintiff by holding that Plaintiff is only a layman who had no cause of action. The question arises: "does a person who is fifty-five years of age, and thirty-two years of his life was in dealing with the public, need a college education and a master's degree for him to know that he has been robbed of his private property which he had owned for twenty-five years and not know who neglected their duty by failing to provide compensation for property seized without description and without compensation?"

The obligation to use due care, diligence and skill is imposed by the law itself upon any one who undertakes to do what involves risk of injury to another; and this legal duty is created by the mere fact of undertaking such an enterprise. The Defendants failed to observe the stated legal duties and obligations imposed by law, and to this case they are constitutional laws which have been violated by the Defendants.

It is an ancient boast of Anglo-American jurisprudence that public officers have no immunity from the sanctions of law applicable to the ordinary citizen. In *Ashby v. White*, 22

Ld. Raym. 938, 956 (1703), Chief Justice Holt declaimed that "if publick officers will infringe mens rights, they ought to pay greater damages than other men, to deter and hinder other officers from the like offences." And Lord Mansfield, in *Mostyn v. Fabrigas*, 1 Cowp. 161, 175 (1744), put the matter still more strongly: "therefor to lay down in an English court of Justice such a monstrous proposition, as that a governor acting by virtue of letters patent under the great seal, is accountable only to God and his own conscience; that he is absolutely despotic, and can spoil, plunder, and affect his Majesty's subjects, both in their liberty and property, with impunity, is a doctrine that cannot be maintained."

Summary of Reasons for Granting this Writ

Under the facts of the case as they relate to Defendants public nature and who were in open court charged with willful negligence that constitutes fraud and it develops that the Defendants are free to violate Pennsylvania Constitution and same with United States Constitution in that no one will take appropriate action against the Defendants due to the powerful political influence they have with state government, the judicial system and in the legal profession that the Plaintiff cannot retain counsel so as to expose the criminal fraud the case is involved against the Defendants.

This case involves a significant distasteful form of racial and class discrimination in a prejudiced community affecting the fair administration of justice and in violation of the United States Constitution in respect to the due process clause and fair hearings that has denied Plaintiff equal protection under the law for Plaintiff's rights and property taken without compensation.

The Plaintiff's trial, heard without jury, without court stenographer to record the proceedings, without three Defendants who failed to make appearance and the evidence of facts excluded from the record in the Court of Common Pleas of Chester County, Pennsylvania, notwithstanding

that the judge refused to disqualify himself from the case on ground of personal interest, and these matters were not reported in the Judge's written opinion, which is an error in law and error in facts that supports so-called star chamber trial.

The Pennsylvania Supreme Court Order issued on March 22, 1966, affirming its lower court order contains also error of facts in that the case was not argued on Jan. 11, 1966, as reported by them, and also all Defendants named in the report as making appearance is denied by the Plaintiff; the facts are that all named Defendants failed to make appearance in the Pennsylvania Supreme Court and no argument was had as reported by them, who gave Plaintiff the "lick and promise treatment," at Plaintiff's day in court so that case would not be argued; and later the Plaintiff was refused, by the Pennsylvania Supreme Court, the right to be heard by Order of May 6, 1966.

Due to the nature of Plaintiff's case, the equal justice under the law Plaintiff is seeking can only be had in this Court where "star chamber" trials and "lick and promise" methods are not recognized by this Court.

Conclusion

It is respectfully submitted that the judgment of the Court below is erroneous and that the petition herein should be granted.

MICHAEL IZZI, *Petitioner*
In Propria Personna

APPENDIX

COURT OF COMMON PLEAS
CHESTER COUNTY, PENNA.

No. 35, Feb. Term, 1964 Action in Trespass

MICHAEL IZZI

vs.

JOHN REZZOLLA, ESQUIRE, DALLETT HEMPHILL, ESQUIRE, WILLIAM J. C. O'DONNELL, ESQUIRE and OFFICERS OF THE COMMONWEALTH

DECISION

Defendants have filed a preliminary objection to plaintiff's complaint in trespass raising the question of venue and the sufficiency of the complaint relative to stating a cause of action. After a reading of the complaint we are at a loss to determine in what capacity plaintiff is bringing the action, upon what grounds and against whom. Practically every rule of pleading has been violated and most particularly the extreme vagueness of the complaint prohibits a rational discussion or even a determination of whether a cause of action might be set forth in an amended pleading. Under the circumstances, while it appears extremely doubtful that a sustainable cause may be asserted in an amended pleading, we are not able to say absolutely that such may not not be possible. We do, therefore, sustain the preliminary objection in the nature of a demurrer with leave, however, to plaintiff to file an amended complaint within twenty days of this date setting forth sufficient facts to clearly indicate the capacity in which he is acting as plaintiff and for whose interest, the specific facts relied upon as the basis

for his cause of action and the specific breakdown of items of damage claimed. In the event no such amended complaint is filed within twenty days of this date the action is ordered dismissed.

Dated this 26th day of March, 1965.

By the Court:

/s/ THOMAS A. RILEY *J.*

From the Record

Attest Elizabeth B. Bell
Deputy Prothonotary

3/26/65

ORDER

And Now this 23rd day of June, 1965 defendants' preliminary objections to strike both amended complaint and purported new original complaint in the above action are hereby sustained and both complaints are ordered stricken.

By the Court:

/s/ THOMAS A. RILEY, *J.*

From the Record

Attest Ruth M. Jackson
Deputy Prothonotary

6/23/65

IN THE COURT OF QUARTER SESSIONS
CHESTER COUNTY, PENNSYLVANIA

No. 5 ROAD DAMAGES, 1955

MICHAEL IZZI
and
CORAMAY McCORD IZZI, his wife

vs.

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Department of Highways

MOTION FOR EXTENSION OF TIME FOR FILING REPORT OF JURY OF VIEW

To the Honorable, the Judges of Said Court:

Dallett Hemphill, counsel of record for Department of Highways, Commonwealth of Pennsylvania, moves your Honorable Court to extend the return date for filing of the Report of the Jury of View appointed on June 7, 1955 to assess damages in the above captioned proceedings, from July 11, 1955 to April 29, 1957.

DALLETT HEMPHILL
Attorney for Department of Highways
Commonwealth of Pennsylvania

ORDER

AND NOW, this 29th day of April, 1957, upon motion of Dallett Hemphill, the return date for filing the Report of the Jury of View appointed by this Court to assess damages in the above captioned proceedings, is hereby extended to April 29, 1957.

By the Court:

/s/ ERNEST HARVEY, *J.*

[LETTERHEAD OF]
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

In Reply Refer to O. R. 261 September 7, 1961

Chester—775, 1
Michael & Coramay McCord Izzi
Claim #15110-A

Mr. Michael Izzi
West Chester Pike at
By-Pass
West Chester, Pennsylvania

Dear Mr. Izzi:

In reference to your telegram dated August 28, 1961, please be advised that although your claim has been investigated by various members of my staff from time to time, no written report of investigation has ever been filed.

Very truly yours,

JOHN R. REZZOLLA, Jr.,
Chief Counsel

[Exposing Concealment and suppression of information.]

Sept. 14, 1961

Mr. John Rezzolla, Jr.
Chief Counsel
Penna. Dept. of Highways
Harrisburg, Penna.

Dear Sir:

This will acknowledge receipt of your letter of Sept. 7, 1961.

I am disappointed if true that no report of the investigation of the many complaints brought to your attention of my case has not been filed yet.

As you have been informed many times that I am a victim of public abuse on the local level and one way you can prove that you are not a part of them is to file the report of the investigation and send me a copy so that I may presented it to the proper authority and appropriate action may be taken against lawyers and officers of Pa. Dept. of Highways who has injured us or you will be held for suppressing information.

Yours Truly,

MICHAEL IZZI

[Notice of Liability.]

TELEGRAM

CY PD WEST CHESTER PENN MAR 19 1154AEST 62

HON. DAVID F. STAHL
THE STATE ATTORNEY GENL
HARRISBURG PA

WOULD APPRECIATE AN APPOINTMENT TO DISCUSS CHARGES I LIKE TO MAKE AGAINST MR JOHN REZZOLLO WHO HAS SUPPORTED LOCAL MISHANDLING AND IRREGULARITIES OF MY CLAIM AGAINST THE PA DEPT OF HIGHWAYS AND ALSO CHARGES AGAINST THE SAME DEPT FOR INVASION OF PRIVATE PROPERTY OF LAND TAKEN IN 1953 WITHOUT DUE NOTICE TO PROPERTY OWNERS AND NOT YET PAID FOR

MICHAEL IZZI 927 SO HIGH ST WEST CHESTER PA

[Right to be heard was denied.]

[LETTERHEAD OF]
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

In Reply Refer to O.R. 268-D April 27, 1962

Chester — 775, 1
Michael & Coramay McCord Izzi
Claim #15110-A

James E. O'Neill, Jr., Esquire
26 East Market Street
West Chester, Pennsylvania

Dear Mr. O'Neill

Mr. Hemphill has forwarded to this office the "Stipulation to Open Negotiations" which you presumably have drawn and submitted to him. Please be advised that the Commonwealth has no intention of opening any negotiations with Mr. Izzi pertaining to the condemnation of the above route.

The damages awarded by the Court of Common Pleas have been paid into Court and the matter is at an end, as far as the Department of Highways is concerned.

Very truly yours,

MICHAEL R. DECKMAN
Assistant Attorney General

[Exposing false solicitation and breach of stipulation of Feb. 14, 1962.]

[LETTERHEAD OF]

LAW OFFICES

O'DONNELL & O'DONNELL

December 10, 1962

The Honorable John M. Kurtz, Jr.
Courthouse
West Chester, Pennsylvania

Re: Michael Izzi et ux
v.
Commonwealth of Pennsylvania

My dear Judge Kurtz:

As reported to you over the telephone, I have received a call from Frank Truscott, Esquire, of the Philadelphia Bar, and I have agreed with Mr. Truscott, to apply to your Honor to defer decision in this matter until January 10, 1963. The purpose for this delay is to allow Mr. Truscott a sufficient time to prepare and file a Petition for Jury of View and enter into a stipulation allowing the default judgment to be stricken off. Our thought was that the Commonwealth would waive the defense of Statute of Limitations and I am now writing for express approval of this.

Mr. Truscott has agreed to recommend this course of action to Mr. Izzi. Should Mr. Izzi refuse to accept Mr. Truscott's recommendation, Mr. Truscott has indicated that the deferment which we are now seeking would be terminated at once. We would then ask your Honor to grant Mr. Izzi a few days from such a time so that he might yet file his brief.

We are convinced that, assuming the requisite approval from both sides, this is the fairest course of action all around.

Very truly yours,

O'DONNELL & O'DONNELL
W. J. C. O'DONNELL

[Waiving statute of limitation for land seized without description and just compensation.]

[TELEGRAM]

DL PD WEST CHESTER PENN

Jan. 25, 1963—11:59 A.M.

MR JOHN REZZOLLA CHIEF COUNSEL
PENNA. DEPT OF HWYS
HARRISBURG PENN

AGAIN. I AM REQUESTING FROM YOU A COPY OF THE REPORT OF THE INVESTIGATION YOU MADE OF MY CASE IN REFERENCE TO IRREGULARITIES BROUGHT TO YOUR ATTENTION IN 1956. ON JUNE 1 1960 YOU STATED TO ME IN YOUR OFFICE AND PROMISED ME THAT YOU WOULD INVESTIGATE MY COMPLAINT WITH THE PENNA. DEPT OF HIGHWAYS AND ITS REPRESENTATIVES FOR WHICH YOU SPENT 3 MONTHS IN DOING. AFTER THOSE 3 MONTHS YOU REPORTED FINDINGS TO THE FORMER ATTORNEY GENERAL MISS ALPREN.

IN 1961 U. S. SENATOR CLARK ACTING ON MY BEHALF AND DEMAND, MADE A REQUEST TO YOUR DEPT TO OBTAIN COPY OF THE REPORT OF THAT INVESTIGATION YOU SPENT 3 MONTHS ON AND WAS ADMITTED IN THE LETTER SENT HIM THAT MY CASE WAS INVESTIGATED BUT NO REPORT WAS EVER SENT TO THE SENATOR OR TO ME.

BECAUSE OF PENDING MATTERS IN COURT WHO ARE WAITING FOR ME TO FILE THE ANSWER TO MR. O DONNELLS BRIEF, I AM LOST IN PREPARING THAT ANSWER TO COURT UNLESS I RECEIVE FROM YOU A COPY OF THE REPORT OF MY COMPLAINT YOU SPENT 3 MONTHS ON TO INVESTIGATE FROM JUNE 1 1960 TO SEPT 7 1960. AND THE FINDINGS WERE REPORTED TO MISS

ALPREN BY YOU BUT THE CONTENTS WERE NOT MADE KNOWN TO ME.

PLEASE FORWARD COPY OF REPORT TO ME WITHOUT FURTHER DELAY SO THAT THE COURT WILL NOT BE DELAYED ANY LONGER, FOR MY ANSWER TO THE SAID BRIEF OF MR O DONNELLS ESQ. THANK YOU.

YOURS TRULY

MICHAEL IZZI

[Complaint]

[LETTERHEAD OF]

LAW OFFICES
O'DONNELL & O'DONNELL

April 26, 1963

Samuel Rappapport, Esquire
Juniper Building
1324 Walnut Street
Philadelphia 7, Pennsylvania

Re: Michael Izzi, et ux v. Commonwealth of Pennsylvania—Action of Assumpsit—No. 36 June Term, 1962

Dear Mr. Rappapport:

On Friday, April 19, 1963, the application of the Plaintiffs for leave to amend their complaint was called for hearing at 10:00 A. M. When it was called, I advised the Court that you had informed me that you would not appear in support of the Petition. Michael Izzi appeared in propria persona and, after approximately five hours of deliberation, advised the Court that he, too, wished to withdraw the Petition to Amend. The Court thereupon discharged the Rule which had been granted on his Petition, with prejudice.

I am sure that you have no great amount of interest in the common pleas matter, but this letter is written merely to keep you abreast of the situation.

Very truly yours,

O'DONNELL & O'DONNELL
W. J. C. O'DONNELL

[Exposing conspiracy, false representation and intent to defraud Petitioner.]

[LETTERHEAD OF]
DALLETT HEMPHILL
ATTORNEY AT LAW

May 8, 1963

Mr. Michael Izzi
927 So. High St.
West Chester, Pa.

Dear Mr. Izzi:

You have asked me for a transcript of the testimony presented to the jury of view at the 1955 hearing in your condemnation proceedings. To my knowledge the testimony was not taken stenographically and as a result no transcript was prepared.

You have also asked me for a power of attorney paper which you believe Mr. Foxall turned over to me. I do not recall ever having received this item, but if I do find it in the old file I will forward same to you.

Very truly yours,

DALLETT HEMPHILL

[Exposing concealment.]

[LETTERHEAD OF]
LOUIS SILVERMAN & ASSOCIATES
CONSULTING APPRAISERS

June 3, 1963

Mr. Michael Izzi
927 S. High Street
West Chester, Pa.

Dear Mr. Izzi:

This is to advise you that I have turned over all papers in your matter to your attorney, Samuel Rappaport, Esquire.

I am also making a formal demand for my fee for both appraisal and testimony in this matter, since my work is now completed.

Very truly yours,

LOUIS SILVERMAN

[Exposing fraudulent conversion of private property to injure Petitioner.]

[LETTERHEAD OF]
LAW OFFICES
ROGERS & O'NEILL

August 28, 1963

Mr. Michael Izzi
927 South High Street
West Chester, Pennsylvania

Dear Mike:

In checking my files, I find that I neglected to serve a copy of our petition on the Commonwealth. Therefore, I will ask the Court to extend the return date and I will see that the petition is served.

Of course, this means that this matter can not be heard on September 3rd.

Yours very truly,

JAMES E. O'NEILL, Jr.

[Exposing negligence.]

[LETTERHEAD OF]
COMMONWEALTH OF PENNSYLVANIA
OFFICE OF AUDITOR GENERAL

September 30, 1963

Mr. Michael Izzi
927 South High Street
West Chester, Penna.

Re: Louis Silverman

Dear Mr. Izzi:

Replying to your inquiry, Mr. Louis Silverman, of Philadelphia, was employed in the Department of Auditor General effective April 1, 1963.

Sincerely yours,

JOHN M. McHALE
Deputy Auditor General.

[Exposes false representation and conflict of interest.]

[LETTERHEAD OF]
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

August 6, 1964

In Reply Refer to O. R. 268

Chester—775, 1
Michael and Coramany Izzi
Claim #15110-A

Mr. Michael Izzi
927 South High Street
West Chester, Pennsylvania

Dear Mr. Izzi:

In reference to your letter of July 9, 1964, addressed to Mr. Gallagher, please be advised, as you have been advised on many previous occasions by the undersigned and various other members of the Department's legal staff, that the Department has no intention whatever of re-opening any of your past or present right-of-way claims. In fact, it is the intention of the Department of Highways to oppose your current appeal to the Supreme Court on the grounds that the matter has been fully and finally determined by the Courts of Chester County and that the time for appeal has long since passed.

Very truly yours,

MICHAEL R. DECKMAN
Principal Right-of-Way Counsel

[The real issue being avoided.]

IN THE COURT OF COMMON PLEAS OF
CHESTER COUNTY, PENNSYLVANIA

No. 12421 1964 Misc.

ANTHONY IZZI and
ADELINE IZZI, his wife
vs.
COMMONWEALTH OF PENNSYLVANIA

Order

AND NOW, to wit, this 2nd day of November 1964, upon the consideration of foregoing petition, and upon motion of Lawrence M. Aglow, Esq., attorney for the above named plaintiffs, Ralph W. Kent, Esquire, Ira J. Oakes and Russell A. Applegate are appointed a Jury of View. The said Viewers shall view the premises, ascertain and assess such damages, as well as any benefits, that may have been occasioned by the taking which occurred on January 13, 1953 and on January 28, 1958, more particularly described in the Petition filed, and thereafter to report their findings in writing sec leg.

By the Court:

THOMAS A. RILEY, J.

[Appointing viewers for land seized without notice, description, hearing and without just compensation to owners in fee but later was dismissed on ground of statute of limitations claimed by the defendant.]

[LETTERHEAD OF]
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

January 6, 1965

Mr. Michael Izzi
927 High Street
West Chester, Pennsylvania

Dear Mr. Izzi:

Our Chief Legal Counsel recommends that further communications with regard to your court cases should be between your counsel and our local counsel, William O'Donnell, Attorney at Law, Phoenixville, Pennsylvania. Probably it would be best for both you and for me if this line of communication is taken.

Very truly yours,

HENRY D. HARRAL
Secretary of Highways

[No results.]

---

927 South High Street
West Chester, Penna.
February 23, 1965

W. Edward Greenwood, Esq.
119 North High Street
West Chester, Penna.

Dear Sir:

In compliance with instruction upon the complaint made to John Rezzolla, Jr., Esq., of the Pennsylvania Department of Highways, to have William J. C. O'Donnell, Esq., removed as an attorney for the Commonwealth for reason of mal-practice, and because he is a member of your Bar, I wish to file charges with your Bar on the conduct of

William J. C. O'Donnell, Esq., that constitute conspiracy, collusion and fraud, and also as an accessory after the fact to a land swindle that was discovered in 1962.

It is my belief that the above information has all the requirements, namely, the accuser, the accused, and the charges for your Committee to proceed with an investigation and hearing, at which I will testify.

Very truly yours,

MICHAEL IZZI

[Refused to take appropriate action on Petitioner's complaint by the Chairman of the Committee of Censors of the Chester County Bar Association.]

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927 South High Street
West Chester, Penna.
March 29, 1965

The Hon. Henry D. Harral
Secretary of Highways
501 North Office Building
Harrisburg, Pennsylvania

Dear Sir:

Enclosed herewith is a notice of appearance on behalf of myself and family, who are all victims of abuse of process in the taking of our private property by the Commonwealth. The officers, who are at the command of John Rezzolla, Esq., who is Chief Counsel for your Department, and who, in my opinion, has encouraged officers to exercise the abuse of process against us, also includes Wayne Razor of Downingtown, Penna., R. D. 1, who conspired without our knowledge in setting up and with one of our former attorneys in using my name to carry out a land swindle which came to light in 1962.

Although this matter was brought to the attention of Mr. John Rezzolla of your Department (who you inherited from the former administration) many times has failed not only to perform his duty as an officer of the Commonwealth,

but also has encouraged officers under him to exercise the abuse of process against us and whose only aim was and is to cause us additional injury and harm. If our difficulties came to light before our legislature and the senate it would be a mockery to our beautiful state realizing that we are victims of the same treatment received by the colored race in Alabama who are victims of force and fraud by that state.

On March 22, 1965, in court and before the judge, William J. C. O'Donnell, Esq., who has been very hostile to us and our cause, admitted to the court that abuse of process does exist in matters of our interests.

For reason that our cause is greater than the people involved, and who have encouraged abuse of process against us, we would be most grateful to you if you can help us find a solution to our problem without further delay.

I thought perhaps one fair method would be for you to appoint a tribunal made up of impartial attorneys or judges or honest statesmen of your calibre, who do not cater to underhand politicians, and permit me to present my case before them.

Very truly yours,

MICHAEL IZZI

[Complaint]

[LETTERHEAD OF]
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF HIGHWAYS

April 1, 1965

Mr. Michael Izzi
927 South High Street
West Chester, Pennsylvania

Dear Mr. Izzi:

This will acknowledge receipt of your letter of March 29, 1965.

I am referring it to my Legal Department:

Very truly yours,

HENRY D. HARRAL
Secretary of Highways

[No results.]

TELEGRAM

109 DL PD WEST CHESTER PENN MAY 11 1135A EDT
THE HON. HENRY D HARRAL, SEC OF HIGHWAYS
501 NORTH OFFICE BLDG. HARRISBURG, PENNA.

ON MAY 8TH LAST I SUGGESTED TO YOU THAT MY DIFFICULTIES WITH YOUR DEPT. BE REVIEWED BEFORE YOU AND MR JOHN REZZOLLA THAT INVOLVES FRAUD. PLEASE ADVISE AS TO TIME, PLACE AND DATE THIS MEETING CAN TAKE PLACE. REASON FOR THIS SUGGESTION WAS THAT YOU DID NOT KNOW ALL THE FACTS AND THE ABUSE OF PROCESS USED ON US BY YOUR DEPT. IN OBTAINING LAND ALL OF WHICH ARE CONTRARY TO THE CONSTITUTION AND

AGAINST THE PEACE AND DIGNITY OF THE COMMONWEALTH OF PENNA. WOULD APPRECIATE IF YOU ORDER ALL PROCEEDINGS AT STAY ON ALL MATTERS TILL AFTER THE MEETING, YOURS TRULY,

MICHAEL IZZI 927 HIGH STREET WEST CHESTER, Pa.

[Complaint]

TELEGRAM

PD WEST CHESTER PENN

1965 JUN 15 PM 12 16

THE HONORABLE HENRY D. HARRAL
SECRETARY OF HIGHWAYS
501 NORTH OFFICE BUILDING
HARRISBURG, PENNA.

PLEASE ADVISE AS TO WHAT ACTION IS BEING TAKEN BY MR. WAGONSELLER WHO PROMISED HE WOULD SPEAK TO MR. JOHN REZZELLA IN HAVING MR. WM. J. C. O'DONNELL REMOVED AS YOUR REPRESENTATIVE IN CHESTER COUNTY UPON THE COMPLAINT MADE TO THEM ON JUNE 3, 1965 AS TO THE MALE PRACTICE AND MISCONDUCT OF MR. O'DONNELL THAT CONSTITUTE CRIMINAL FRAUD. PLEASE GIVE THIS MATTER YOUR PERSONAL ATTENTION BEFORE JUNE 21, 1965. YOURS TRULY

MICHAEL IZZI
927 SOUTH SIGH STREET
WEST CHESTER, PENNA.

COPY

[Complaint]

June 30, 1965

Governor Scranton
704 N. E. National Bank Building
Scranton, Pennsylvania

My dear Governor:

After many complaints made to agents and officers of the Pennsylvania Department of Highways, under the supervision of Mr. John Rezzolla, who is Chief Counsel for the said Department, I find it impossible to cope with deplorable conditions that still exist in the said Department.

We are made victims of land swindle and fraud that is now common knowledge, which Mr. John Rezzolla has supported since 1956 when the first complaint was brought to his attention concerning local irregularities in the taking of private property for highway purposes by the Commonwealth, in violation of the State and Federal Constitution.

It is not easy to write you this letter, but as our Governor you are receiving this letter because everything else has failed in protecting our rights and property from the harsh treatment at the hands of irresponsible agents of the said Department.

I have complained many times as to the conduct of Mr. John Rezzolla to Mr. Harral, and the replies I receive from him is that he has turned over my complaint to his Legal Department (which is headed by Mr. John Rezzolla) who in turn covers up for himself and his agents, and nothing is done concerning our many complaints that involves land swindle and fraud, which we are made victims of on the local level and supported by Mr. John Rezzolla in Harrisburg.

Enclosed is a copy of my last wire to Mr. Harral, and also a copy of his answer to my wire, which is self-explanatory, and for reason that Mr. Wagonseller was brought into our case by Mr. John Rezzolla, I fear that nothing will be uncovered to our favor and protection. If I say, I would

like to make request that my grievance be heard before you so that appropriate action will be taken without further delay.

I would be most grateful to you if this courtesy is extended to me.

Sincerely yours,

MICHAEL IZZI

927 South High Street
West Chester, Penna.
Phone — 215-696-9781

[Complaint—No results.]

LIBRARY

IN THE

Supreme Court of the United States

Office-Supreme Court, U.S.
FILED
DEC 1 1966
JOHN F. DAVIS, CLERK

October Term, 1966

No. 524

MICHAEL IZZI, *Petitioner*

vs.

JOHN R. REZZOLLA, JR., ESQ., DALLETT HEMPHILL, ESQ., WILLIAM J. C. O'DONNELL, ESQ., and JAMES O'NEAL, ESQ., *Respondents*

PETITION FOR REHEARING

Michael Izzi,
Pro se, Petitioner

927 S. High Street
West Chester, Pennsylvania

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1966

No. 524

MICHAEL IZZI, *Petitioner*

vs.

JOHN R. REZZOLLA, JR., ESQ., DALLETT HEMPHILL, ESQ., WILLIAM J. C. O'DONNELL, ESQ., and JAMES O'NEAL, ESQ., *Respondents*

Petition for Rehearing of Order Denying Petition For Writ of Certiorari Dated November 7, 1966.

Petitioner respectfully prays that, pursuant to Paragraph 2 of Rule 58 of the revised rules of this Honorable Court, a rehearing be granted of the Order of this Honorable Court, entered in this case on November 7, 1966 denying the petition for a writ of certiorari to the Pennsylvania Supreme Court, Eastern District. The petitioner respectfully shows as follows:

1. That petitioner, by honest and harmless mistake, filed with this Court the wrong court certified records which was caused by a misunderstanding.

2. That the petitioner's honest and harmless mistake is corrected and the proper court certified records are now

filed with this petition for rehearing and review which were not available to this Court when this Court order of November 7, 1966 was issued.

3. The principal question before this Honorable Court is: May an honest and harmless mistake be corrected?

In *Earnest v. Napier*, 15 Ga. 306; *Whitaker v. Whitaker*, 19 Ky. L. Rep. 1476, 43 S. W. 464; *Schamberg v. Leslie*, 19 Ky. L. Rep. 599, 41 S. W. 265; *Myers v. Trice*, 86 Va. 835, 11 S. E. 428, it was held that where, in the progress of the trial, the cause suffers injustice from the honest mistake of the party or his counsel, a continuance will be allowed.

In the instant case based upon the same principle as cases cited is that in place of continuance is a rehearing upon the proper court certified records that will support the petition for writ of certiorari filed in this Court on September 6, 1966, to which the respondent chose not to answer.

4. It will be observed that the petitioner was denied the right to be heard in the Supreme Court of Pennsylvania to present evidence that was excluded from the records of its lower court of which part is found in the appendix of petition for writ of certiorari, in which copies of letters prove that the petitioner was made a victim of a conspiracy to do injuries and to make matters worse the respondent has used the United States mail to carry out fraud by force against petitioner's person, rights and property that calls for a reply from the respondents, all of whom failed to make appearance for their day in court.

5. The petitioner stands alone with the United States Constitution and this Court for protection against respondent's malicious abuse of power in respect to real property seized and judicial procedure that does not meet the standards of the fair hearing and due process clause to our constitution.

CONCLUSION

For reasons set forth above and in the petition for writ of certiorari, it is respectfully urged that a rehearing be granted and that, upon such rehearing a writ of certiorari issue to the Supreme Court of Pennsylvania, Eastern District.

Respectfully submitted,

MICHAEL IZZI,
Pro se Petitioner

CERTIFICATE OF GOOD FAITH

I, Michael Izzi, pro se, do hereby certify that the foregoing petition for a rehearing is presented in good faith; that I sincerely believe that there is substantial legal reason for a rehearing; and this petition is not filed for the purpose of delay and is restricted to grounds which are, as I believe, intervening circumstance of substantial and controlling effect within the meaning of Rule 58, Paragraph 2, and constitute also substantial ground not previously presented to this Court in the petition for certiorari.

MICHAEL IZZI,
Pro se Petitioner
927 South High Street
West Chester, Penna.

PROOF OF SERVICE

I, Michael Izzi, pro se, petitioner herein, do hereby certify that on December 1, 1966, I served 5 copy of the foregoing petition for a rehearing by United States registered mail and number, postage prepaid on each respondent, as follows:

JOHN R. REZZOLLA, JR., ESQ. - no. 740095
1652 Cedarcliff Drive
Camp Hill, Penna.

DALLETT HEMPHILL, ESQ. - no. 740096
108 S. High Street
West Chester, Penna.

WM. J. C. O'DONNELL, ESQ. - no. 740097
543 Hickory Lane
Berwyn, Penna.

JAMES E. O'NEILL, ESQ. - no. 740098
26 East Market Street
West Chester, Penna.